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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 JOSEPH A. LAWSON and GABRIELA T.
12 LAWSON,

13 Plaintiffs,

14 vs.

15 SELECT PORTFOLIO SERVICING,
16 ACCREDITED HOME LENDERS, INC.,
17 QUALITY LOAN SERVICE CORP.,
18 MORTGAGE ELECTRONIC
19 REGISTERING SYSTEMS doing business
20 in the State of California,

21 Defendants.

CASE NO. 11-cv-1475-MMA (POR)

**ORDER GRANTING
DEFENDANTS' UNOPPOSED
MOTION TO DISMISS**

[Doc. No. 5]

22 Plaintiffs Joseph A. Lawson and Gabriela T. Lawson, proceeding *pro se*, filed this action
23 on July 5, 2011 against Defendants Select Portfolio Servicing, Accredited Home Lenders, Inc.,
24 Quality Loan Services Corp., and Mortgage Electronic Registration Systems. On September 1,
25 2011, Defendants filed the pending Motion to Dismiss pursuant to Federal Rules of Civil
26 Procedure 8(a), 9(b) and 12(b)(6). [Doc. No. 5.] After the deadline to oppose the Motion passed,
27 Plaintiffs requested additional time to respond to the Motion to Dismiss. [Doc. No. 9.] The Court
28 granted Plaintiffs' request and gave them until November 3, 2011 to file an opposition. [Doc. No.
10]. Plaintiffs never opposed the Motion. For the following reasons, the Court **GRANTS**
Defendants' Motion to Dismiss.

DISCUSSION

This action arises from foreclosure-related events with respect to Plaintiffs' home. The property in dispute is identified as 1050 Panno St., Brawley, California 92227. Plaintiffs' Complaint seeks: (1) emergency temporary and permanent injunctive relief to stop the foreclosure sale of the subject property; and (2) declaratory relief regarding the legal rights to the subject property. Defendants move to dismiss the Complaint pursuant to Federal Rules of Civil Procedure 8(a) and 12(b)(6) for failure to state a claim upon which relief may be granted and pursuant to Rule 9(b) for failure to plead fraud with particularity. As noted above, Plaintiffs requested additional time to respond to the Motion, but never filed an opposition.

The Ninth Circuit has held a district court may properly grant an unopposed motion to dismiss pursuant to a local rule where the local rule permits, but does not require, the granting of a motion for failure to respond. *See generally, Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Local Civil Rule 7.1.f.3.c provides that "[i]f an opposing party fails to file papers in the manner required by Local Rule 7.1.e.2, that failure may constitute a consent to the granting of that motion or other ruling by the court." As such, the Court has the option of granting Defendants' Motion on the basis of Plaintiffs' failure to respond, and it chooses to do so.

Generally, public policy favors disposition of cases on their merits. *See, e.g., Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998). However, a case cannot move forward toward resolution on the merits when the plaintiffs fail to defend their complaint against a Rule 12(b)(6) motion. Thus, this policy lends little support to a party whose responsibility it is to move a case toward disposition on the merits but whose conduct impedes or completely prevents progress in that direction. *See In re Eisen*, 31 F.3d 1447, 1454 (9th Cir. 1994). In addition, management of this Court's docket is of vital significance to the proper and timely resolution of matters before it. Consequently, the Court finds dismissal of this action pursuant to Local Civil Rule 7.1.f.3.c serves to facilitate the management of its docket in light of the fact that multiple cases similar to the one at bar are currently pending and poised in a similar procedural posture.

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CONCLUSION

For the reasons set forth above, the Court **GRANTS** Defendants' unopposed motion and **DISMISSES** this action without prejudice. All pending motions, deadlines, and/or hearings are hereby terminated. The Clerk of Court is instructed to close the case file.

IT IS SO ORDERED.

DATED: November 28, 2011

A handwritten signature in black ink, reading "Michael M. Anello", written over a horizontal line.

Hon. Michael M. Anello
United States District Judge